

Evaluation of Comments Submitted on the Consultation Paper “Energie-Control Austria Interpretative Note on Transparency Requirements and Third-Party Access Services Concerning Storage Facilities”

(December 2011)

Articles 15 and 19 of Regulation (EC) No 715/2009 on the internal gas market specify a number of requirements applying to storage system operators regarding third-party access services as well as transparency.

After a first-round survey, Energie-Control Austria (E-Control) and the storage system operators (SSOs) had arrived at varying judgements concerning the degree to which the requirements of the Regulation had been met. In the interests of a common understanding, E-Control subsequently prepared an interpretative note on the above-mentioned articles of the EU Regulation, which was then submitted for consultation on 14 October 2011 to the SSOs active in Austria.

As of 30 November 2011, three SSOs had submitted their comments, and these are summarised and evaluated below. One SSO indicated that it would not submit to E-Control any comment on the consultation paper.

Evaluation of comments

The majority of storage system operators welcome the opportunity to submit comments.

The points of the interpretative note on which the storage system operators submitted comments are assessed by the regulatory authority in the following. Those comments that E-Control regards as justified will be taken into account in the final version of the document

“Energie-Control Austria Interpretative Note on Transparency Requirements and Third-Party Access Services Concerning Storage Facilities”.

ad 2.1.

- Two storage system operators point out that *Speicherunternehmen* should be referred to in the interpretative note.

Regulation 715/2009 refers to “storage system operators”, a term defined in Directive 2009/73/EC on the internal gas market as “a natural or legal person that carries out the function of storage and is responsible for operating a storage facility”. This definition was adopted in section 7 para. 1 item 58 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 for the German term *Speicherunternehmen*, additionally specifying that “this includes undertakings that merely manage a storage facility”. At the suggestion of the undertakings, in the interpretative note, reference will be made to the term *Speicherunternehmen* (storage system operator or SSO), also used in the Natural Gas Act.

ad 3.1.

- Two SSOs object to the publication of the GGPSSO CAM & CMP, with one of the SSOs arguing that the guidelines are not legally binding.

In its interpretative note E-Control retains the statement referring to publication of the GGPSSO CAM & CMP, which, however, should be taken merely as a suggestion or recommendation.

- With reference to the requirement to state the contract term, one SSO points out that this item only reflects the term for which the specific product may be booked in the theoretical case, without checking its actual availability.

E-Control cites in response Article 15(2)(b) Regulation 715/2009, which requires SSOs to offer both long and short term services. This implies stating a term (e.g. days, months, years).

- Two SSOs comment that, in contrast to planned interruptions, information about unplanned interruptions only becomes known after their occurrence and cannot therefore be published in advance. Another SSO questions the advantage to be gained from making public unplanned interruptions, since such interruptions often do not (or no longer) interest potential storage customers, when the usual lead times prior to concluding a storage contract are considered.

E-Control is of the opinion that unplanned interruptions leading to restrictions of storage capacities must be made public on the website of the SSO in a timely manner and existing storage customers must be additionally notified thereof, especially since storages represent an important source of flexibility for trading at the virtual trading point as well. The aim of making public unplanned interruptions is to ensure equal treatment of all market participants with regard to important information.

- One SSO raises the criticism that the additional indicators listed in the consultation paper do not represent technically relevant items of information, while at the same time suggesting that a requirement to make public the operator to whose system the facility is connected, being a technically relevant item of information, should be included in the interpretative note.

In the interpretative note E-Control retains the statement referring to publication of additional indicators, which, however, should be taken merely as a suggestion or recommendation.

Another SSO suggests defining the additional indicators within the framework of a European discussion process in order to achieve harmonisation.

Whereas experience shows that coordination at the international level requires a lengthy period of time, E-Control sees the need to implement the specific requirements of Article 19 of Regulation 715/2009 immediately. In addition, E-Control assumes in general that data currently being published will continue to be published.

- With reference to injection and withdrawal characteristics, one SSO remarks that injection and withdrawal characteristics should also be allowed to be published in descriptive form; another SSO, understanding injection and withdrawal characteristics to refer to the storage profile, points out that efforts are currently underway at the European level to develop an aggregated storage profile on the basis of the data platform. The same SSO also recognises no legally binding basis for the requirement and consequently suggests it be omitted from the interpretative note.

In E-Control's view, injection and withdrawal characteristics are technical data that refer to a specific storage facility in each case, and for this reason an aggregated representation is not considered useful. E-Control prefers the injection and withdrawal characteristics for each storage facility to be depicted numerically in graphic form, while a descriptive explanation may be provided additionally.

ad 3.2.

- Two SSOs object to publishing both contracted and available capacities for each product: firstly, due to the need to maintain the flexibility of offering greater capacities for more highly demanded products; and secondly because every booking of a partial service directly influences the availability of all other products (injection rate, withdrawal rate, working gas volume). Another SSO does not regard the disclosure of contracted storage capacities for each product as an obligation, yet at the same time suggests that a greater amount of detail be published on available capacities in comparison to contracted capacities. In the view of the same SSO, it would be helpful to define the term "for each storage product" in greater detail, specifically by requiring, as a minimum standard, figures for injection rate, withdrawal rate and working gas volume to be published, itemised according to firm and interruptible capacities if applicable.

E-Control assumes storage system operators to offer the products listed in Article 15(2) Regulation 715/2009. If during a certain period of time the services offered become limited (e.g. no bundled products can be offered due to booking of the total working gas volume), this fact should be communicated to market participants via the website of the SSO. For contracts already concluded, aggregated data on the capacities or the working gas volume of the particular

products, as applicable, should be made public. It is not, however, expected that the available capacities be indicated for every product.

ad 3.4.

- In their comments, three SSOs note that the publication of historical data on capacities (archive) is not stipulated in the Regulation and is of no significance whatsoever for potential storage customers; the data are used instead by gas market analysts for commercial purposes. Two of the SSOs direct additional critique at the publication of data on future capacity, on the grounds that the Regulation contains no specification of the timeframe. While two SSOs wish to have omitted from the interpretative note the requirement to publish both historical and future data on capacities, one SSO proposes that this be explicitly stated as a suggestion.

E-Control maintains that historical data must be made available to (potential) storage customers for reasons of transparency and equal treatment; this also follows from the requirement for storage customers to be able to assess the probability of interruption as being reflected in the price of interruptible services (cf. Article 15(2)(a) Regulation 715/2009). If SSOs subsequently choose not to publish historical data, they must at least make this information available to customers upon request (an indication to this effect must be provided on the website). As soon as any potential customer requests an offer from the SSO, the SSO must provide historical information along with the offer. With reference to the publication of data on future capacities, Article 19(4) Regulation 715/2009 clearly stipulates that available capacities of storage facilities must be made public. In E-Control's opinion this implies publication for the minimum contract term of a storage facility.

- One SSO appreciates the pragmatic approach applied by E-Control with respect to data submission, i.e. depending on consultation with the system operator, data do not

necessarily have to be submitted but reference to the SSO's website may be regarded adequate.

Two other SSOs note in this regard that Article 19(4) Regulation 715/2009 refers only to transmission system operators and not to distribution system operators, which are consequently not part of the interpretation.

With regard to the applicability of the interpretative note to distribution system operators, E-Control asserts that storage system operators are required pursuant to section 105 para. 1 item 2 Natural Gas Act 2011 to furnish to the distribution system operators various items of information that are mainly of a technical nature, especially such as to ensure safe and efficient operation. Pursuant to section 105 para. 1 item 4, storage system operators shall additionally make commercial information available on their websites in a user-friendly standardised manner.

- One SSO comments that the publication of available capacities should be based on the offers of access, and that a daily update should therefore not be generally required but only when the amount of available capacities changes.

E-Control maintains that it must be possible to understand when the published data was updated. In order to be able to transparently understand any changes, it is important to indicate when the information was updated – this should be indicated on the website, e.g. by including an appropriate item (“updated on”). As mentioned previously in the consultation paper on the interpretative note, the reference period for the available capacity may be longer than one day. This means that, as long as there are no changes in the available capacity, only the date will be updated on a daily basis. Since this can be done automatically, it implies no major effort for the SSO.